

815
EXTRACT

Sharp (G.)
7

LETTER

TO A

GENTLEMAN

IN

MARYLAND;

Wherein is demonstrated the extreme wickedness of tolerating the *Slave Trade*, in order to favour the *illegalities* of our Colonies, where the *Two First Foundations of English Law*, (*Two Witnesses of God*) are supplanted by opposing (and of course *illegal*) ordinances, which occasion a *Civil Death of the English Constitution*, in that these *Two Witnesses* may be said to lie dead in all the *West India Islands*!

LONDON:

PRINTED BY JAMES DODD, GEORGE YARD, ST. MARTIN'S LANE.
1794.

THE

BRITISH MUSEUM

1851

THE

BRITISH MUSEUM



EXTRACT

OF A

LETTER, &c.

A Remark, which I made many years ago, respecting the *illegality* of taking up *Slaves that had escaped from their masters*, had been useful (I was informed) to some friends of humanity in America, in their endeavours to protect those poor oppressed people. I cannot now find a copy of that paper, but the argument was chiefly built on a reference to a text in Deut. ch. xxiii. v. 15, 16.—“*Thou shalt not deliver unto his master the servant which is escaped from his master unto thee: He shall dwell with thee, even among you, in the place WHICH HE SHALL CHOOSE*” (manifestly as

a freeman) "in one of thy GATES where IT
 "LIKETH HIM BEST: thou shalt not oppress him."
 This, I observed, was no part of the abrogated
ceremonial law of the Jews; but, manifestly, a
moral law, because the reason of it still remains:—so
 that it must be of indispensable obligation as long
 as the hateful *oppressions* of Slave-holders afford us
 any occasions of exercising this duty to God of pro-
 tecting the Slaves that escape from their masters; and
 consequently I asserted that any colonial law, which
 opposes this ordinance of God, by ordering the
 arresting and delivering up runaway Slaves, or
 which, in any way, tends to deprive them of due
 legal protection, is, of course, to be deemed a
corruption, null and void in itself, as being contrary
 to the second foundation of English law. This
 necessary consequence I urged from a well known
maxim of the English law respecting Statutes,
 (acts of Assembly, or acts of Parliament) "*nec*
contra RATIONEM, nec contra LEGEM DIVINAM"
"(statuta) existunt". (Doct. et Stud. c. 10. p. 35. b.)
 —That "Statutes exist not against REASON, nor
 "against the DIVINE LAW," and that "*an unjust*
"law is NOT LAW."—"Lex injusta non est lex."
 Prin. Leg. et Æquit.) And again, that "*these*
"two laws," (viz. the Law of Reason, and the
 Law Divine) "*cannot abate, or turn aside*"—"Hæ
 "*duæ Leges declinari non possunt.*" Doct. et
 Stud. c. 17. p. 52.

But I have since had occasion to regard these
 two fundamental laws of the English constitution,
 with still more awful attention; and therefore I
 must farther remark, that the first foundation, the
 basis of REASON, (as including all the laws of na-
 ture

ture, justice, and natural right) is certainly to be deemed *the law of God*, as well as the *second foundation* (the divine precepts in the Holy Scriptures), because the former is defined by high legal authority, to be "*the law written upon the heart of man,*" (and of course is the law of nature) which cannot "therefore be obliterated, nor changed by time or place, but ought every where, and among all men, to be maintained, because THE LAWS OF NATURE ARE IMMUTABLE"—"*Lex rationis in corde scribitur, ideo deleri non potest, nec etiam recipit mutationem ex loco nec tempore, sed ubique, et inter omnes homines servari debet. Nam JURA NATURALIA IMMUTABILIA SUNT. Et ratio immutationis est quod recipiunt naturam rei pro fundamento, quæ semper eadem est et ubique.*" (Doct. et Stud. c. 2. p. 5.) This amply demonstrates the propriety of declaring *the law of Reason* to be the *first foundation* of English law; as being "*the law of God, written*" (as it were) "*on the heart of man*"—It is that "*knowledge of good and evil in man,*" which may fairly be deemed a participation of "*the Divine Wisdom,*" or of Christ himself, that "*true light, which lighteth every man that cometh into the world.*" (John i. 9.) and of course renders every man obnoxious, through the knowledge of right and law, to the divine vengeance for disobedience! Our first parents wilfully assumed this knowledge, contrary to an express command of their Creator, (being deluded by the spiritual enemy) and thereby entailed death and condemnation on all their posterity, laying them under an absolute necessity to obtain redemption.

tion by a still farther participation of the same
 “*Divine Wisdom,*” or “*Word of God.*”

There is also another legal term or title, for this *first foundation of law*; viz. “*the eternal law,*” which in our books is properly defined to mean exactly the same authority as “*the law of reason,*” i. e. *the supreme reason of DIVINE WISDOM, by which GOD WILLS that all things created by him, be moved and directed to a good and proper end.*—*LEX ÆTERNA nihil aliud est quam ipsa SUMMA RATIO GUBERNATIONIS RERUM IN DEO, sive illa summa ratio DIVINÆ SAPIENTIÆ, qua vult DEUS omnia a se condita moveri, et dirigi ad bonum et debitum finem,*” &c. (Doct. et Stud. c. 1. p. 2.)—and again, “*The LAW ETERNAL, under another description, is called a perpetual and constant WILL to give to every one his RIGHT. Lex Æterna sub alia descriptione dicitur perpetua et constans VOLUNTAS JUS SUUM UNICUIQUE TRIBUENS.*” (ibid.) Here then we find an immoveable foundation of justice, of right, of the rights of man, of righteousness, of the law of nature, &c. for all these terms are parallel, or of the same import; and are necessarily included in the law of reason or eternal law, which is properly called “*the first law*—“*LEX etiam ÆTERNA dicitur LEX PRIMA, et bene dicitur prima, nam fuit ante omnes alias leges: et omnes aliæ leges dirivantur ab ea:—The LAW ETERNAL is called the FIRST LAW, and well is it called the first, for it was before all other laws; and all other laws are derived from it.*” In this solemn view of the *first foundation of English law*, it must evidently be deemed “*a witness of God,*”

as well as the *second foundation*, the *written word of God in the Holy Scriptures*; and both foundations may well be expressed together by the more compendious terms of "*natural and revealed religion*."

In no instance whatever are *these TWO WITNESSES OF GOD* more obviously and undeniably resisted than in the *toleration of slavery and the Slave Trade*, because these oppressions are *iniquities* which militate against *both the foundations*, and therefore the present public question, whether the *Slave Trade* ought or ought not to be *abolished*, may fairly be deemed an infallible *touch-stone* to discover the treachery of pretended *loyalists*; for no man can be truly *loyal* to God and his country, who is so totally devoid of *first principles*, as to *favour slavery*! Let those who have ignorantly done so, recover their credit by redoubled endeavours to restore the honour and constitutional law of their country, which has been wounded by their *treacherous neglect* of the foundations of law, whereby they will otherwise incur that *indelible stain of infamy*, which our *common LAW* deservedly fixes on all persons who *betray the law of the land*, "*Legem terræ amittentes perpetuam infamiæ notam inde merito incurrunt*." (3 Inst. p. 221). But mark the authorities of our *common law* to this purpose—"Liberty," is declared by the maxims of the *first foundation*, to be "*inestimable*"—"Libertas *est res inestimabilis*" (Jenk. Cent. 52.) and "*Liberty is the greatest jewel*." (Grounds & Rudim. of Law and Equity, p. 196.) and therefore "*cruel*" "*of necessity must that law be deemed, which augmenteth slavery, and diminisheth liberty*"—says the excellent and worthy Chancellor Fortescue,

who in very dark times of prevailing *bestial power*, nobly asserted the supreme immutable authority of *God's two witnesses*, as manifested in the first principles of our English common law, or legal constitution. "For in behalf of *liberty*" (says he), "*human nature always implores*" (or solicits favour), "*because Slavery is introduced by man, and for vice*; but LIBERTY is implanted BY GOD, in the *very nature of man*: wherefore when stolen by man, it always earnestly longs to return, as does every thing which is deprived of *natural liberty*; for which reason the man who does not favour liberty is to be adjudged IMPIOUS and CRUEL. The laws of England acknowledging these" (principles,) "give favour to liberty in every case.*"—A part of this sentence is cited by Lord Coke, as a maxim of our *common law*,—"Impius et crudelis, judicandus est qui libertati non favet." (Co. Lit. 124.)—viz. "*Impious and cruel is the man to be adjudged, who does not favour liberty.*" The opposite condition, therefore, to liberty, viz. *slavery*, is properly declared by one of our oldest English authorities in law, *Fleta*, to be "*contrary to nature.*†" (*Fleta*, 2d edit. p. 1.)

* "*Crudelis etiam necessario judicabitur lex, quæ servitutem augmentat, et minuit libertatem. Nam pro ea natura semper implorat humana. Quia ab homine et pro vitio, introducta est servitus. Sed libertas a Deo hominis est indita naturæ. Quare ipsa ab homine sublata semper redire gliscit, ut facit omne, quod libertate naturali privatur. Quo IMPIUS et CRUELIS judicandus est qui libertati non favet. Hæc considerantia Angliæ Jura in omni casu libertati dant favorem (Chan. Fort. de laudibus Legum Angliæ, c. 42. p. 101.)*"

† "*Est quidem Servitus Libertati contrarium; item Constitutio quædam de Jure Gentium, qua quis Domino*" (or rather "*Domino*") "*alieno CONTRA NATURAM subijcitur,*" &c. (*Fleta*, 2d ed. p. 1.)

which

which expression of Fleta is really a maxim of the civil or Roman law (See Inst. Lib. 1. tit. 3. leg. 2.); and though such appeals in the Roman code to the foundations of law, could not restrain the *belluina potestas* of Roman tyranny in any of the ten kingdoms of the beast, as clearly foretold in the scriptures, nor prevent improper additions to the code under the name of law; yet surely the friends of Liberty may be thankful to the Justinian code for the authority of its testimony against slavery: for when the two first foundations of law shall hereafter be restored, through God's mercy, to their due power and effect,—when these “two witnesses” of God shall stand upon their feet, and ascend into “Heaven,” (i. e. be established above all human authority, and be acknowledged as the irresistible will of God, which must “BE DONE ON EARTH AS IT IS IN HEAVEN;”) then shall our deluded Statesmen, Lawyers, Commercial Politicians, and Planters, be compelled to understand that a more forcible expression of illegality and iniquity could not have been used than that by which SLAVERY is defined in the Roman code, as well as by our English Fleta,—i. e. that it is “CONTRA NATURAM,” “AGAINST NATURE;” for consequently it must be utterly illegal, a crime which by the first foundation of English law, is justly deemed both IMPIOUS and CRUEL, and which in the strong figurative language of God's prophets, under the second foundation of our law, is compared to the guilt of cannibalism, or eating human flesh, as I have shewn in my remonstrance to the Citizens
of

of London,* and therefore these *unnatural crimes* of *Slavery*, and the *Slave-Trade*, must necessarily be deemed, like all other *unnatural crimes*, detestable, abominable, and damnable, both to the souls and bodies of all that willfully promote them! The severity of these expressions cannot be restrained without injustice to the high authorities on which this argument is founded.

It

* Viz. ' That there are also many other odious means of promoting *human destruction*, to which the guilt of *Man-eating* is equally imputable in the Scripture sense of that horrible depravity, which the sacred Writers manifestly attributed to the oppressors of the poor, the orphan, and the stranger; to him that "*used his neighbour's service without wages, and gave him not for his work*;" to those that "*oppressed the stranger wrongfully*;" and to those, perhaps more particularly, who presumed to make "*private property*" of the poor and the stranger, by iniquitous ordinances, contrary to the foundations of law; depriving them of "*judgment*," I mean that *protection of the laws*, which is emphatically deemed "*the judgment of God*," and which all legal Kings and their Judges are still bound by their oaths to maintain, viz. "*judgment*," (or "*due process of the law*,") "*without respect of persons*." For where this "*judgment of God*" is even only neglected, there can be no legal government; but if the neglect of it be actually ordained by "*unrighteous decrees*," pretending to give men a
right

It would be an awful inquiry to trace the time when the English Nation was rendered obnoxious by *Slavery*, to the application of these horrible epithets, *impious, cruel, &c.* And it is wonderful how the *unnatural crime* could so long be overlooked, until usage and custom had established in all the British Colonies, as a *right*, this enormous *wrong*; to the perversion of all legal terms. We cannot

right to do wrong, and to "*establish iniquity by a law*," the presumption must be *heinous* in the sight of the *King of Righteousness*; for in no other sense were the persons whom the Prophets charged with "*eating up the people*," ("*slaying their skin from off them*," and "*chopping them in pieces, as for the pot*," &c.) ever guilty of *Man-eating*. And therefore this *unnatural crime* is surely still *equally imputable* to the authors and promoters of the like oppressions in the present times, who literally "*slay off the skin from off*" their poor *unrewarded* labourers with *Cow-skin whips*, and cruelly "*exact all their labours*!" Even to be silent when the suppression of such enormities was fairly brought to a *national question*, after the clearest proofs of their existence, must be *highly criminal*! And it would be *uncharitable* in me as a *Citizen*, if I neglected this fair opportunity of a *public charity* to warn my fellow citizens, who have withheld their testimony of *abhorrence* on this occasion, how far this horrible guilt of *Man-eating* is *really imputable*! The illegal tyrannies by which this guilt is most obviously incurred are, indeed, at a distance from your sight,' &c.

cannot conceive that the admission of Slavery into the Colonies has been *intentional* on the part of government at home, but merely through want of a fixt attention to *the two first principles of law and religion*. But the sworn Judges of the Colonial Courts (when the oppression first began,) were without excuse for permitting the evil of Slavery to take root without warning their Royal Masters of the *illegality*, knowing that the *constitutional law* of the kingdom, is "*to deny justice to no man*" without exception, ("*nulli negabimus aut differemus justitiam*;" Magna Charta.) and knowing that they themselves are sworn "*to do justice and judgment without respect of persons*,"—and also that under a *legal* English Government, there can be but *one law* for all descriptions of persons, according to two excellent maxims of the first foundation;* and consequently that without *national reprobacy*, there could be no such personal distinctions in law as SLAVEHOLDER and SLAVE, so that they must be bound in duty to their King and Country, to prevent in the King's name any such oppression as *Slaveholding*. They ought to have known, that the limited temporal permission which had been granted to the Israelites to hold *Slaves*, was absolutely annulled by a subsequent command of God, "*to let the oppressed go free, and to break every yoke*," (Isaiah c. lviii. v. 5 and

* "*Turpis est pars quæ non convenit cum suo toto*," and "*nihil in lege intolerabilius est eandem rem diverso jure censeri*." (Grounds & Rudim. of Law and Eq. No. 377.)

6). There is no exception to this command, which proves that a *total abolition of Slavery* was at that time, the declared *Will of God*: which is still more clearly demonstrated by a future denunciation against the practice of Slaveholders, by the prophet Jeremiah, just before the Israelites themselves were to be carried into *Slavery* for their *oppressions* and neglect of God's laws.

"*Woe be to him that useth his neighbour's service*
 " *WITHOUT WAGES, and giveth him not for his*
 " *work.*" These are *moral laws of eternal obligation*, (though recorded in the Old Testament) because the *reason, justice, and mercy* of them are still obvious; for "*ratio legis est anima legis,*" and therefore surely *woe* is most alarmingly due to *all governments*, or pretended legal establishments, which sanction such notorious injustice and oppression! Should a total disregard of the two first foundations of the *English Law and Constitution* prevail, we shall have not only to dread the *infamy* incurred, according to the maxim, "*Legem Terræ amittentes,*" &c. but also to look for *divine retribution* from him who has promised to "*destroy the destroyers of the earth, and to bind into captivity those that led into captivity!*" And indeed after the most careful investigation of all the prophetic marks of the antichristian beast, and its image, compared with preceding times, according to the best Chronological Histories, I am convinced that the accomplishment and end of the tyranny (not by human means, but "*without hand*") must be nearly approaching! The divine vengeance seems ready to be poured upon us!

Let

Let not the inhabitants of Maryland and Carolina conceive, that because their territories are not included within the bounds of the four great monarchies, the theatre of the prophetic examples of *Divine vengeance*, that they shall be less liable to the awful effects of it! For be assured that when the ten kingdoms of Bestial Roman Government are destroyed, the *will of God*, as expressed in the two foundations of English law, *natural and revealed religion*, (God's two witnesses) will certainly be established "*on earth as it is in heaven*," according to the universal prayer of the Christian church.—Nay, it will be established "*under the whole heaven*," (Daniel vii. 27.) so that the only effectual means of avoiding this universal destruction of *bestial illegality*, is to acknowledge, reverence, and establish, the *two first foundations of English Law* above all other authorities; for that must be the universal effect of *the kingdom of Christ on earth*.

If the Legislators and Lawyers of Maryland and the Carolinas, shall be able to suggest any thing *like an argument* in opposition to the high legal authorities which I have cited, they must have more *subtile heads and worse hearts* than I am willing to attribute to any one, who is not obviously *actuated* by the grand spiritual enemy of man!

GRANVILLE SHARP.



